

## **REMARKS**

Claims 61-65, 67, 68, 70 and 72-81 are pending. Claim 70 is the only remaining independent claim. Claims 80 and 81 are newly-presented.

### ***Claim Rejections - 35 U.S.C. §112***

Claims 78 and 79 were rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. The claims have been amended to overcome these rejections. Withdrawal of the rejection is requested.

### ***Claim Rejections - 35 U.S.C. §103***

Claims 70-74 and 76-79 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over United States publication No. 2003/0196662 to Ging et al. in view of United States Patent No. 6,470,886 to Jestrabeck-Hart. Reconsideration and withdrawal of the rejection is requested.

The limitations of claim 71 have been amended into claim 70. In addition, claim 70 has been amended to specify that the supporting strap supports the conduit such that the conduit hangs away from the headgear. Claim 73 has been amended to clarify the advantage provided by the sliding connection between the headgear and conduit.

Claim 70 specifies “ a support strap attached to said headgear, said support strap forming a loop to connect to and support said conduit, said support strap connects to said conduit below the gases inlet as said conduit hangs vertically below said gases inlet, said support strap

supporting said conduit such that said conduit hangs away from said headgear and mask.”

Ging does not disclose a mask with support straps that attach to the headgear and support the conduit such that it hangs below and away from the mask and headgear.

Jestrabeck-Hart discloses straps 13 and 32 that hold the top part of the mask close to or touching eyebrows as seen in Figs. 6c and 11a. The straps 13 and 32 of Jestrabeck-Hart do not support the conduit to hang away from the mask. Column 6, lines 50-60 state the strap as shown in Fig. 7 holds to the top part of the mask to and touching the eyebrow/forehead area of the face. The straps 13 used to support the conduit are shown in detail in Figs. 7c and 7d and described in Col. 6, lines 15-20. Jestrabeck-Hart teaches away from the invention defined in claim 70.

Combining the straps 13 of Jestrabeck-Hart with the mask of Ging will not result in a support strap that supports the conduit to hang vertically below the mask and away from the mask and headgear because the straps of Jestrabeck-Hart are intended to hold the conduit close to the patient's face and headgear. Placing the straps of Jestrabeck-Hart on the mask or headgear of Ging will result in the conduit being pulled close to the mask and headgear.

Therefore, amended claim 70 is not rendered obvious by Ging in view of Jestrabeck-Hart since the cited prior art does not disclose a support strap that supports a conduit as it hangs vertically below the mask and away from the headgear. Reconsideration and allowance of amended claim 70 is requested.

Claims 72-74 and 76-79 are dependent upon claim 70 which Applicants submit is allowable. Therefore, Applicants submit that these claims are allowable. Reconsideration and allowance is requested.

With further regard to claim 73, claim 73 requires a sliding connection between the headgear and conduit where the support strap is a sliding strap, such that the loading on the conduit is transferred to the headgear. The straps of Jestrabeck-Hart are not a sliding connection because the straps are looped through a piece 27 that is pulled tight. The straps 13 of Jestrabeck-Hart hold the conduit close to the face and headgear. Ging does not disclose a support strap that attaches to the headgear and supports the conduit. Using the straps of Jestrabeck-Hart in combination with the mask and headgear of Ging still results in the conduit being pulled close to a mask. There is no disclosure in either Ging or Jestrabeck-Hart of a sliding connection between the mask and the headgear.

The sliding connection due to a sliding strap, as defined by claim 73, allows the conduit to move around without moving the headgear. The sliding strap decouples the movement of the conduit from the headgear and mask. As the conduit moves around, the sliding strap moves with the conduit relative to the headgear thus reducing any unbalanced loads on the mask or headgear due to conduit movement.

Therefore, Applicants further submit that claim 73 is allowable. Reconsideration and allowance is requested.

With further regard to claim 74, claim 74 requires a sliding connection between the headgear and interface when the interface is engaged. The Examiner contends that Ging shows a sliding connection 128 between the headgear 140 and interface. Feature 128 in Ging is a buckle that connects the top strap 88 with a top strap 140 of cross over strap 138, (as per paragraph [0148]). The buckle 128 does not provide a sliding connection between the headgear and interface. The buckle 128 forms a connection between two straps. The buckle allows strap 140

to move relative to strap 88. There is no disclosure of a sliding connection between the headgear and interface as required by claim 74. The sliding connection between the headgear and interface allows a user to move his or her head without dislodging the interface or changing the position of the interface. The sliding connection between the headgear and interface decouples the movement of the interface from the headgear. This is important and advantageous because in a user's sleep the user can move his/her head without dislodging the interface, thus allowing therapy to be maintained and continued. The buckle 128 of Ging does not decouple the movement of the interface and headgear. Paragraph [0120] of Ging states the mask frame is attached to the headgear assembly 80 by hook and loop attachments of locking clips. These attachment mechanisms effectively lock the headgear and interface together making them a single piece. Hence, if the headgear is moved (due to patient head movement) the mask will also move.

Claim 74 requires a sliding connection between the headgear and interface to allow the headgear to move without moving or dislodging the interface from the correct position while in use. Ging does not teach a sliding connection between the headgear and the interface.

Jestrabeck-Hart teaches the mask (interface) being attached to the headgear (1 and 2) by elastic straps 13, as shown in Figs. 7A-7D (see, Col. 6, lines 15-20). The elastic straps have fasteners 4 that may be a hook and loop type fastener. The hook and loop fasteners 4 also effectively make the mask and the headgear one piece, as in Ging. Any headgear movement would move the mask due to the elastic straps 13 and the fasteners 4. Jestrabeck-Hart does not disclose a sliding connection between the headgear and mask as defined by claim 74. The straps 13 and fasteners of Jestrabeck-Hart will not decouple the mask and headgear and will not allow the headgear to

move without moving the mask (interface) due to the fasteners 4 that connect the straps 13 to the mask.

Therefore, Applicants further submit that claim 74 is allowable. Reconsideration and allowance is requested.

With further regard to claim 76, claim 76 requires the headgear to attach to the interface by a sliding strap. None of the cited prior art discloses a headgear attached to the interface by a sliding strap. In Ging, the mask 20 is connected to the headgear assembly 82 by a yoke 92 or by a hook and loop arrangement or locking clips. The yoke 92 is not a sliding strap since it does not slide relative to the mask frame 20. The locking clips and hook and loop arrangements are not sliding straps. In Jestrabeck-Hart, the mask is connected to the headgear by elastic straps 13. The straps are attached to the mask by a fastener 4, such as hook and loop attachments. The straps 13 are also attached to the headgear by a fastener. The straps 13 cannot slide relative to the mask because of the fastener and hence are not sliding straps. A sliding strap needs to be able to slide relative to the mask (interface), which straps 13 cannot do since they are locked to the mask and the headgear by hook and loop fasteners. The sliding strap as defined in claim 76 provides the advantage of decoupling the movement of the headgear from the interface. Neither of the cited documents disclose the claimed sliding strap.

Therefore, Applicants further submit that claim 76 is allowable. Reconsideration and allowance is requested.

Claim 75 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ging in view of Jestrabeck-Hart and further in view of United States publication No. 2006/0118119 to Berthon-Jones. Claim 75 is dependent upon claim 70 which Applicants submit is allowable.

Therefore, Applicants submit that claim 75 is allowable. Reconsideration and allowance is requested.

Claims 61-63 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over United States Patent No. 6,595,214 to Hecker in view of Jestrabek-Hart. The dependencies of claims 61-63 have been amended to depend from independent claim 70. The features of claim 66 have been amended into claim 65. Claims 61-63 are dependent upon claim 70 which Applicants submit is allowable. Therefore, Applicants submit that these claims are allowable.

Reconsideration and allowance is requested.

Claims 64, 67 and 68 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker et al. in view of Jestrabek-Hart and further in view of Ging. The dependencies of claims 64, 67 and 68 have been amended to depend from independent claim 70. The features of claim 69 have been amended into claim 68. Claims 64, 67 and 68 are dependent upon claim 70 which Applicants submit is allowable. Therefore, Applicants submit that these claims are allowable. Reconsideration and allowance is requested.

#### ***Newly-Presented Claims***

Applicants have added new claims 80 and 81 which are dependent upon claim 70 which Applicants submit is allowable. Therefore, Applicants submit that these claims are allowable. Entry, consideration and allowance is requested.

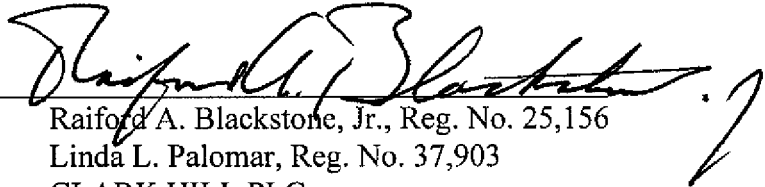
A Request for Continued Examination is concurrently submitted with this Amendment to extend the date for response up to and including August 13, 2010.

Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 985-5900.

Respectfully submitted,

Dated: Aug. 13, 2010

By:



Raiford A. Blackstone, Jr., Reg. No. 25,156

Linda L. Palomar, Reg. No. 37,903

CLARK HILL PLC

150 N. Michigan Avenue

Suite 2700

Chicago, Illinois 60601

(312) 985-5900